

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

Jonathan Guerrero, on behalf of himself and all
others similarly situated,

Civil Action No. 17 cv 6746 SJF-AKT

Plaintiff,

ANSWER

v.

Miller & Milone, P.C.,

Defendant.

Defendant, Miller & Milone P.C. (“Defendant”), by its attorneys, Mound Cotton Wollan
& Greengrass LLP, responds to Plaintiff’s Complaint as follows:

INTRODUCTION

1. Denies the allegations contained in paragraph 1 of the Complaint.

JURISDICTION AND VENUE

2. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 2 of the Complaint and refers all questions of law to the trial court for judicial determination.

3. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 3 of the Complaint and refers all questions of law to the trial court for judicial determination.

4. Admits the allegations contained in paragraph 4 of the Complaint.

PARTIES

5. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 5 of the Complaint.

6. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 6 of the Complaint and refers all questions of law to the trial court for judicial determination.

7. Admits the allegations contained in paragraph 7 of the Complaint.

8. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 8 of the Complaint and refers all questions of law to the trial court for judicial determination.

9. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 9 of the Complaint and refers all questions of law to trial court for judicial determination.

10. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 10 of the Complaint, and in addition, states that the contents of the documents referred to therein speak for themselves.

11. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 11 of the Complaint and refers all questions of law to the trial court for judicial determination.

12. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 12 of the Complaint.

13. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 13 of the Complaint.

14. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 14 of the Complaint, and in addition, states that the contents of the documents referred to therein speak for themselves.

15. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 15 of the Complaint, and in addition, states that the contents of the documents referred to therein speak for themselves.

16. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 16 of the Complaint, and in addition, states that the contents of the documents referred to therein speak for themselves, and refers all questions of law to trial court for judicial determination.

17. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 17 of the Complaint and refers all questions of law to the trial court for judicial determination.

18. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 18 of the Complaint and refers all questions of law to the trial court for judicial determination.

19. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 19 of the Complaint and refers all questions of law to the trial court for judicial determination.

20. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 20 of the Complaint and refers all questions of law to the trial court for judicial determination.

21. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 21 of the Complaint and refers all questions of law to the trial court for judicial determination.

22. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 22 of the Complaint, and in addition, states that the contents of the documents referred to therein speak for themselves.

23. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 23 of the Complaint, and in addition, states that the contents of the documents referred to therein speak for themselves.

24. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 24 of the Complaint and refers all questions of law to the trial court for judicial determination.

25. Denies the truth of each and every allegation contained in paragraph 25 of the Complaint.

26. Denies the truth of each and every allegation contained in paragraph 26 of the Complaint.

27. Denies the truth of each and every allegation contained in paragraph 27 of the Complaint.

28. Denies the truth of each and every allegation contained in paragraph 28 of the Complaint.

29. Denies the truth of each and every allegation contained in paragraph 29 of the Complaint.

30. Denies the truth of each and every allegation contained in paragraph 30 of the Complaint.

CLASS ALLEGATIONS

31. Denies the truth of each and every allegation contained in paragraph 31 of the Complaint.

32. Denies the truth of each and every allegation contained in paragraph 32 of the Complaint.

33. Denies the truth of each and every allegation contained in paragraph 33 of the Complaint.

34. Denies the truth of each and every allegation contained in paragraph 34 of the Complaint.

35. Denies the truth of each and every allegation contained in paragraph 35 of the Complaint.

36. Denies the truth of each and every allegation contained in paragraph 36 of the Complaint.

37. Denies the truth of each and every allegation contained in paragraph 37 of the Complaint.

JURY DEMAND

38. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 38 of the Complaint.

AFFIRMATIVE DEFENSES

**AS AND FOR ANSWERING DEFENDANT'S
FIRST AFFIRMATIVE DEFENSE**

Plaintiff's Complaint fails to state a valid cause of action upon which relief may be granted.

**AS AND FOR ANSWERING DEFENDANT'S
SECOND AFFIRMATIVE DEFENSE**

The Plaintiff's Complaint is not supported by documentary evidence.

**AS AND FOR ANSWERING DEFENDANT'S
THIRD AFFIRMATIVE DEFENSE**

Upon information and belief, the causes of action asserted in the Plaintiff's Complaint against the Answering Defendant are barred in whole or in part by the doctrine of estoppel.

**AS AND FOR ANSWERING DEFENDANT'S
FOURTH AFFIRMATIVE DEFENSE**

If Plaintiff has incurred any damages herein, which claim is expressly denied, such damages are the result of his own culpable conduct.

**AS AND FOR ANSWERING DEFENDANT'S
FIFTH AFFIRMATIVE DEFENSE**

Defendant did not violate, in whole or in part, any provision of the FDCPA.

**AS AND FOR ANSWERING DEFENDANT'S
SIXTH AFFIRMATIVE DEFENSE**

To the extent a violation of any provision of 15 USC §1692 occurred, which violation is expressly denied, such violation was not intentional and resulted from a *bona fide* error notwithstanding reasonable procedures adopted to avoid any such error.

**AS AND FOR ANSWERING DEFENDANT'S
SEVENTH AFFIRMATIVE DEFENSE**

To the extent a violation of any provision of 15 USC §1692 occurred, which violation is expressly denied, such violation was the result of acts of non-agents, or agents acting outside the

scope of their authority.

**AS AND FOR ANSWERING DEFENDANT'S
EIGHTH AFFIRMATIVE DEFENSE**

The instant action is barred by the expiration of the applicable statute of limitations.

**AS AND FOR ANSWERING DEFENDANT'S
NINTH AFFIRMATIVE DEFENSE**

Plaintiff is precluded by the doctrine of waiver and estoppel.

**AS AND FOR ANSWERING DEFENDANT'S
TENTH AFFIRMATIVE DEFENSE**

Plaintiff has failed to mitigate his damages.

WHEREFORE, Answering Defendant Miller & Milone P.C., respectfully requests that this Court enter judgment herein dismissing Plaintiff's claims against it in their entirety, together with such other, further and different relief as this Court deems just and proper.

Dated: New York, New York
December 28, 2017

MOUND COTTON WOLLAN
& GREENGRASS LLP

By /s/
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TO:

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